FILED
JUL 1 9 1956
JOHN T. FEY, Clerk

IN THE

Supreme Court of the United States

OCTOBER TERM, 1956

No. 263

SUSIE V. WATWOOD, *Petitioner*

v.

THE DISTRICT OF COLUMBIA, *Respondent*

PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE DISTRICT OF COLUMBIA CIRCUIT

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Carl L. Shipley, on behalf of Susie V. Watwood, prays that a writ of certiorari issue to review the judgment of the United States Court of Appeals for the District of Columbia Circuit, entered in the above captioned case on June 21, 1956, denying petitioner's application for an appeal from the judgment herein of the Municipal Court of Appeals for the District of Columbia entered on April 25, 1956.

OPINION BELOW

The opinion of the Court below is reported at page 1a of the Appendix hereto.

JURISDICTION

The jurisdiction of the Supreme Court of the United States is invoked under 28 U.S.C. 1254.

QUESTIONS PRESENTED

1. Whether the Court below acted arbitrarily and in violation of its own rules and applicable law when it denied petitioner's application for an appeal from the Municipal Court of Appeals?

STATUTES AND RULES INVOLVED

Rule 1 of the Rules of the United States Court of Appeals for the District of Columbia Circuit governing review of cases from the Municipal Court of Appeals for the District of Columbia provides in pertinent part:

> "Allowance of an Appeal from the Municipal Court of Appeals * * * will be granted only where there are special and important reasons therefor."

Rule 14(c), Municipal Court Rules, provides in pertinent part:

> "In a case tried without a jury the Court shall make a general finding and shall in addition on request find the facts specially."

Rule 82(b), Municipal Court Rules, provides in pertinent part:

> "The use of one of the official court reporters * * * shall be a matter for determination by the trial judge. * * *. This shall be without prejudice to the right of any party to employ a private court reporter * * *."

Title 11-772, D. C. Code 1951, provides in pertinent part:

> "When the appealing party is not represented by counsel, it shall be the duty of the clerk to prepare the application in his behalf."

Title 11-773, D. C. Code 1951, provides in pertinent part:

> "Any party aggrieved by any judgment of the Municipal Court of Appeals * * * may seek a review thereof by the United States Court of Appeals. * * *."

STATEMENT OF CASE

On October 25, 1955, petitioner was found guilty, in a trial without jury and without defense counsel, in the Criminal Division of the Municipal Court on five charges, i.e., disorderly conduct, failure to stop at a stop sign, failure to exhibit her operator's permit and registration, and parking her car within three feet of another vehicle parallel to the curb. All of the charges grew out of an unjustified and arbitrary refusal of the arresting officer to let petitioner explain that she was not responsible for the parallel parking violation which started the difficulty. While petitioner was away from her car either it was pushed, or another vehicle parked too close. When she sought to explain, the officer who was putting a ticket on her windshield when she returned threatened to impound her car and in a fit of pique issued four other tickets.

Petitioner was tried in police court without a jury, without a court reporter, despite her protests and request for one, and despite the fact she had no counsel and had been unable to obtain counsel. Upon conviction, petitioner appealed (within the 3 days allowed), still without counsel and unable to obtain a lawyer, and upon a refusal of the Municipal Court to review,

she petitioned for reconsideration, then appealed to the United States Court of Appeals, where review was denied. Therefore, petitioner's conviction is unreviewed, and accomplished with no record, no defense counsel, and no appeal. In short, petitioner received drum-head justice and no more.

ARGUMENT

The Court below was bound to follow its own Rule 1 and grant an appeal where "there are special and important reasons therefor." *Rule 1, United States Court of Appeals for the District of Columbia Circuit, Governing Review of Cases from the Municipal Court of Appeals, 1948 ed.* Petitioner's statement of the case clearly shows special and important reasons for allowance of an appeal. Said statement is uncontroverted in the record, and, in any event, must be controverted beyond a reasonable doubt before her allegations can be disregarded.

Taken as true, as they must be, for purposes of denying the appeal, petitioner was entitled to an opportunity to procure a court reporter at her own expense if the trial court determined no official reporter was available. *Rule 82 (b), Municipal Court Rules.* She was denied a reporter.

Petitioner was entitled to counsel, or to have the trial court assign counsel, if she could not obtain counsel. *Johnson* v. *Zerbst,* 304 U.S. 458. She had no counsel and the trial court did not assign one. *Von Moltke* v. *Gillies,* 332 U.S. 708.

Petitioner was entitled to notice that she was being charged with disorderly conduct. *U. S.* v. *Davis,* 212 F. 2d 264. She was given none.

Absent counsel, petitioner was entitled to competent help by the clerk in preparation of her appeal. *Title 11-772, D. C. Code, 1951.* She was given totally inadequate help, as the record shows.

Petitioner was entitled to findings of fact which could be reviewed on appeal. *Rule 14(c), Municipal Court Rules.* She was given none, as the record shows.

Petitioner was entitled to a jury trial. She was charged with the crime of disorderly conduct (Sec. 22-1101, et seq, D. C. Code), plus other offenses. *Art. 3, par. 2, line 3, U. S. Constitution; District of Columbia* v. *Colts,* 282 U.S. 63. She was given none.

Petitioner was entitled to a *right* of review, not just permissive review, where she was charged and tried for five offenses, including the crime of disorderly conduct, without counsel and without a jury.

Operating under the umbrella of Title 11-772, the Municipal Court, which is none the less a Federal court and bound by the Federal Constitution, has developed a system of drum-head justice in small cases which avoids all of the procedural safeguards provided in the Federal Constitution. Petitioner's case is a flagrant example of it, and it is a situation which cries inexorably for correction.

WHEREFORE, the premises considered, petitioner prays that her petition for a writ of certiorari be granted.

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July 11, 1956